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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,818	10/22/2001	Yoshiaki Moriyama	Q66481	8300

7590 07/17/2006

SUGHRUE, MION, ZINN,
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Washington, DC 20037

EXAMINER

KHOSHNOODI, NADIA

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,818

Applicant(s)

MORIYAMA, YOSHIAKI

Examiner

Nadia Khoshnoodi

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/5-31-2006.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/17/2006 entered.

Response to Amendment

Applicant's arguments/amendments with respect to amended claims 1-2, 6-7, 9-10, 18, 21, 23-24, 26-28, 30-33, 38, & 40-47, and previously presented claims 3-5, 8, 11-17, 19-20, 22, 25, 29, 34-37, 39, & 48-50 filed 4/17/2006 have been fully considered but are not persuasive where a new rejection appears below due to the amendments made (i.e. deletion of various previously claimed limitations).

Response to Arguments

Applicants contend, "Inoue et al. does not show generating first copy control information indicating a protection state of the recording information which will exist after the recording information is copied, as required by claim 1." Examiner respectfully disagrees. Inoue et al. teach that the copy control information remains with the recording information and exists after the recording information is copied (col. 7, line 55 – col. 8, line 22). Inoue et al. teach that the copy information is modified after being recorded (in the case that it was allowed one copy for

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example) which shows that the copy information exists after the recording. This information also contains values which indicate that there may be an unlimited number of copies or that no more copies can be made. Thus, Inoue et al. teach generating first copy control information indicating a protection state of the recording information which will exist after the recording information is copied (col. 7, line 55 – col. 8, line 22).

Furthermore, with respect to claim 48, Applicants contend that Kim et al. fail to teach “at an output speed higher than a reproducing speed of the recording information from the recording medium.” Examiner respectfully disagrees. Kim et al. clearly state that “if the maximum reproducible time is not below the reproduction time of tape, the enable erase signal is turned off in step 136 to thereby make the copied program reproducible” in col. 10, lines 45-50. This means that there is a check to ensure that the amount of time it took to transmit/output the data must be less than the time it takes to actually record the data in order to allow the reproduction to occur and otherwise the reproduction is prohibited as stated in col. 10, lines 50-57. Therefore, the Examiner maintains that Kim et al. suggest the modification for adding the limitation “at an output speed higher than a reproducing speed of the recording information from the recording medium.”

Due to the reasons stated above, the Examiner maintains rejections with respect to 1-2, 6-7, 9-10, 18, 21, 23-24, 26-28, 30-33, 38, & 40-47, and previously presented claims 3-5, 8, 11-17, 19-20, 22, 25, 29, 34-37, 39, & 48-50. Inoue et al. teach the limitations that the Applicant suggests distinguish from the prior art. Therefore, it is the Examiner's conclusion that amended/previously presented claims are not patentably distinct or non-obvious over the prior art of record as presented.

Claim Rejections - 35 USC § 101

I. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

II. Claims 40-47 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, as they do not fall under any of the statutory classes of inventions. The language in the claims raise an issue because the claims are directed merely to an abstract idea that is not tied to an article of manufacture which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claim Rejections - 35 USC § 102

III. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

IV. Claims 1-4, 6-10, 15-16, 18-21, 23-27, 32-35, 37-40, 42-43, and 45 are rejected under 35 U.S.C. 102(e) as being fully anticipated by Inoue et al., US Patent No. 6,539,468.

As per claims 1, 18, and 32:

Inoue et al. teach an information output apparatus, method, and output control program on an information recording medium comprising a generating device for generating copy control information comprising first copy control information indicating a protection state of the recording information which will exist after the recording information is copied from the recording medium (col. 7, line 55 – col. 8, line 22); and a multiplexing device for multiplexing the copy control information and the recording information (col. 6, lines 20-24), said copy control information indicating said number of times which the recording information can be recorded (col. 4, lines 53-67 and Table 1).

As per claims 2, 19, and 33:

Inoue et al. teach the information output apparatus, method, and output control program on an information recording medium as applied to claims 1, 18, and 32 above. Furthermore, Inoue et al. teach the apparatus, method, and program on an information recording medium wherein the information recording apparatus records the recording information and copy control information into the recording medium, without modifying the copy control information (col. 6, lines 19-35 and col. 7, line 65 – col. 8, line 9).

As per claims 3, 15, 20, and 34:

Inoue et al. teach the information output apparatus, method, and output control program on an information recording medium as applied to claims 1, 9, 18, and 32. Furthermore, Inoue et al. teach the apparatus, method and program on an information recording medium, wherein the copy control information indicates that further recording is prohibited after said recording in the information recording apparatus is completed (col. 8, lines 10-22).

As per claims 4, 16, 21, and 35:

Inoue et al. teach the information output apparatus, method, and output control program on an information recording medium as applied to claims 1, 9, 18, and 32. Furthermore, Inoue et al. teach the apparatus, method, and program on an information recording medium, wherein the output device outputs the multiplexed recording information and copy control information to the information recording apparatus through an electric communication line (col. 6, lines 36-50).

As per claims 6, 23, and 37:

Inoue et al. teach the information output apparatus, method, and output control program on an information recording medium as applied to claims 1, 18, and 32. Furthermore, Inoue et al. teaches the apparatus, method, and program on an information recording medium, wherein the output device further comprises a converting device for converting the multiplexed recording information and copy control information into a recording information and copy control information in conformity with a recording format used for recording the information into the recording medium in the information recording apparatus, to output the converted information to the information recording apparatus, when outputting the multiplexed recording information and copy control information to the information recording apparatus at the output speed (fig. 6, step S610).

As per claim 7:

Inoue et al. teach an information output apparatus comprising a generating device for generating copy control information comprising first copy control information indicating a protection state of the recording information which will exist after the recording information is copied from the recording medium (col. 7, line 55 – col. 8, line 22); and a multiplexing device for multiplexing the copy control information and the recording information (col. 6, lines 20-24),

said copy control information indicating said number of times which the recording information can be recorded (col. 4, lines 53-67 and Table 1); said information recording apparatus comprising: an obtaining device for obtaining the output recording information and copy control information (col. 7, line 50- col. 8, line 9); and a recording device for recording the obtained recording information and copy control information into the recording medium (col. 8, lines 53-58), without modifying the copy control information (col. 7, line 65 – col. 8, line 9).

As per claims 8, 25, and 39:

Inoue et al. teach the information recording apparatus, method, and recording control program on an information recording medium as applied to claim 7, 24, and 38. Furthermore, Inoue et al. teach the apparatus, method, and program on an information recording medium, wherein the recording device records the recording information and copy control information in conformity with the recording format into the recording medium, without modifying the copy control information, when the recoding information and copy control information is output at the output speed (col. 7, line 65 - col. 8, line 9).

As per claims 9 and 26:

Inoue et al. teach an information output apparatus and method comprising a generating device for generating copy control information comprising first copy control information indicating a protection state of the recording information which will exist after the recording information is copied from the recording medium (col. 7, line 55 – col. 8, line 22); and a multiplexing device for multiplexing the copy control information and the recording information (col. 6, lines 20-24), and said information recording apparatus comprises: an obtaining device for obtaining the output recording information and copy control information (col. 7, line 50- col. 8,

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line 9); and a recording device for recording the obtained recording information and copy control information into the recording medium, without modifying the copy control information (col. 7, line 65 – col. 8, line 9).

As per claim 10:

Inoue et al. teach an information output apparatus comprising a generating device for generating copy control information comprising first copy control information indicating a protection state of the recording information which will exist after the recording information is copied from the recording medium (col. 7, line 55 – col. 8, line 22); a multiplexing device for multiplexing the copy control information and the recording information, said copy control information indicating said number of times to be indicated after said recording in the recording information apparatus is completed (col. 4, lines 15-35); and said information recording apparatus comprises: the obtaining device for obtaining the output recording information and copy control information to output the same to the information recording apparatus (col. 7, line 50- col. 8, line 9); and a recording device for recording the output recording information and copy control information into the recording medium, without modifying the copy control information (col. 7, line 65 – col. 8, line 9).

As per claims 24 and 38:

Inoue et al. teach an information output method and output control program on an information recording medium comprising a generating device for generating copy control information comprising first copy control information indicating a protection state of the recording information which will exist after the recording information is copied from the recording medium (col. 7, line 55 – col. 8, line 22); multiplexing the copy control information

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and the recording information, said copy control information indicating said number of times to be indicated after said recording in the recording information apparatus is completed (col. 4, lines 15-35); said information recording apparatus comprising: obtaining the output recording information and copy control information (col. 7, line 50- col. 8, line 9); and recording the obtained recording information and copy control information into the recording medium (col. 8, lines 53-58), without modifying the copy control information (col. 7, line 65 – col. 8, line 9).

As per claim 27:

Inoue et al. teach an information output method and output control program on an information recording medium comprising a generating device for generating copy control information comprising first copy control information indicating a protection state of the recording information which will exist after the recording information is copied from the recording medium (col. 7, line 55 – col. 8, line 22); multiplexing device for multiplexing the copy control information and the recording information, said copy control information indicating said number of times to be indicated after said recording in the recording information apparatus is completed (col. 4, lines 15-35); and said information recording apparatus comprises: the obtaining device for obtaining the output recording information and copy control information to output the same to the information recording apparatus (col. 7, line 50- col. 8, line 9); and a recording device for recording the output recording information and copy control information into the recording medium, without modifying the copy control information (col. 7, line 65 – col. 8, line 9).

As per claim 40:

Inoue et al. teach a computer signal embodied in a carrier wave and representing a sequence of instructions comprising a generating device for generating copy control information comprising first copy control information indicating a protection state of the recording information which will exist after the recording information is copied from the recording medium (col. 7, line 55 – col. 8, line 22) and multiplexing the copy control information and the recording information, said copy control information indicating said number of times to be indicated after said recording in the recording information apparatus is completed (col. 4, lines 15-35).

As per claim 42:

Inoue et al. teach the computer data signal embodied in a carrier wave and representing a sequence of instructions as applied to claim 40 above. Furthermore, Inoue et al. teach the computer data signal embodied in a carrier wave and representing a sequence of instructions, wherein the copy control information indicates that further recording is prohibited after said recording in the information recording apparatus is completed (col. 8, lines 10-22).

As per claim 43:

Inoue et al. teach the computer data signal embodied in a carrier wave and representing a sequence of instructions as applied to claim 40 above. Furthermore, Inoue et al. teach the computer data signal embodied in a carrier wave and representing a sequence of instructions, wherein the output device outputs the multiplexed recording information and copy control information to the information recording apparatus through an electric communication line (col. 6, lines 36-50).

As per claim 45:

Inoue et al. teach the computer data signal embodied in a carrier wave and representing a sequence of instructions as applied to claim 40 above. Furthermore, Inoue et al. teach the computer data signal embodied in a carrier wave and representing a sequence of instructions, wherein said instructions further comprises the step of converting the multiplexed recording information and copy control information into a recording information and copy control information in conformity with a recording format used for recording the information into the recording medium in the information recording apparatus, to output the converted information to the information recording apparatus, when outputting the multiplexed recording information and copy control information to the information recording apparatus at the output speed (fig. 6, step S610).

Claim Rejections - 35 USC § 103

V. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

VI. Claims 5, 17, 22, 36, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al., United States Patent No. 6,539,468 as applied to claims 4, 16, 21, 35, and 43 above, and further in view of Manabu et al., United States Patent No. 6,453,304.

As per claims 5, 17, 22, and 36:

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Inoue et al. substantially teach the apparatus, method, and program on an information recording medium as applied to claims 4, 16, 21, and 35 above. Not explicitly disclosed is the apparatus, method, and program on an information recording medium, wherein the electric communication line is at least any one of the Internet line, a ground wave digital line, a satellite communication line, and a cable television line. However, Manabu et al. teach a similar apparatus, method, and program on an information recording medium where a digital broadcast is connected to the recording device. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the apparatus, method, and program on an information recording medium disclosed in Inoue et al. to allow for the electric communication line to be one of those mentioned above. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Manabu et al. in col. 10, lines 22 – 30.

As per claim 44:

Inoue et al. substantially teach the computer data signal embodied in a carrier wave and representing a sequence of instructions as applied to claim 43 above. Not explicitly disclosed is the computer data signal embodied in a carrier wave and representing a sequence of instructions, wherein the electric communication line is at least any one of the Internet line, a ground wave digital line, a satellite communication line, and a cable television line. However, Manabu et al. teach a similar apparatus, method, and program on an information recording medium where a digital broadcast is connected to the recording device. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify that disclosed in Inoue et al. to allow for the electric communication line to be one of those mentioned above. This modification

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would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Manabu et al. in col. 10, lines 22 – 30.

VII. Claims 11, 28, 41, and 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al., United States Patent No. 6,539,468 and further in view of Kim et al., European Patent Application No. 96306507.3.

As per claims 11 and 28:

Inoue et al. teach the information output recording system and method as applied to claims 10 and 27 above. Not explicitly disclosed is a recognizing device for mutually recognizing the type of the devices between the obtaining device and the information recording apparatus; and a recording control device for controlling the recording device so as to record the recording information and copy control information into the recording medium, only when recognizing that the recording information and copy control information has been output at the higher output speed from the obtaining device, based on the recognition result in the recognizing device.

However, Kim et al. teach the system and method, wherein said information recording apparatus comprises: a recognizing device for mutually recognizing the type of the devices between the obtaining device and the information recording apparatus (col. 7, lines 12-23); and a recording control device for controlling the recording device so as to record the recording information and copy control information into the recording medium, only when recognizing that the recording information and copy control information has been output at the higher output

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speed from the obtaining device, based on the recognition result in the recognizing device (col. 10, line 47 – col. 11, line 3).

Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Inoue et al. to record the recording information and copy control information into the recording medium, only when recognizing that the recording information and copy control information has been output at the higher output speed from the obtaining device, based on the recognition result in the recognizing device. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Kim et al. suggest that one way to control reproduction is to only allow the recording if the recording time is greater than the time it takes to output/transmit the data in col. 10, line 47 – col. 11, line 3.

As per claim 41:

Inoue et al. teach the computer data signal embodied in a carrier wave and representing a sequence of instructions as applied to claim 40 above. Not explicitly disclosed is wherein However, Kim et al. teach the computer data signal embodied in a carrier wave and representing a sequence of instructions, wherein the information recording apparatus records the output recording information and copy control information into the recording medium, regardless of the content of the copy control information (col. 10, lines 37-47). Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Inoue et al. record the output information and copy control information into the medium regardless of the copy control information. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been

motivated to do so since Kim et al. suggest that if the recording speed is greater than the time taken to transmit the data then the copy should be allowed in col. 10, lines 37-47.

As per claim 46:

Inoue et al. teach an information output method and output control program on an information recording medium comprising a generating device for generating copy control information comprising first copy control information indicating a protection state of the recording information which will exist after the recording information is copied from the recording medium (col. 7, line 55 – col. 8, line 22); multiplexing device for multiplexing the copy control information and the recording information, said copy control information which comprises a second copy control information indicating a protection state of the recording information which will exist after the recording information is copied from the recording medium (col. 6, lines 20-24 and col. 7, line 55 – col. 8, line 22) and the recording information, said copy control information indicating said number of times to be indicated after said recording in the recording information apparatus is completed (col. 4, lines 15-35); said instructions comprising the steps of: obtaining the output recording information and copy control information (col. 7, line 50 – col. 8, line 9) and recording the obtained recording information and copy control information into the recording medium (col. 8, lines 53-58).

Not explicitly disclosed is a first copy control information after a recorded state on the recording medium. However, Kim et al. teach that the copy control information is added to a portion of the audio track of the cassette tapes that the digital data that has already been scrambled onto. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the apparatus, method, and output control program on an

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information recording medium disclosed in Inoue et al. to have a generating device for generating copy control information after a recorded state on the recording medium. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Kim et al. suggest recording the copy control information onto the medium separately, i.e. after the recording in order to control how many copies may be made in the future in col. 8, lines 2-19.

Also not explicitly disclosed by Inoue et al. are the instructions comprising the steps of recording the obtained recording information and copy control information into the recording medium, regardless of the content of the copy control information. However, Kim et al. teach the steps of recording the obtained recording information and copy control information into the recording medium, regardless of the content of the copy control information. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the instructions comprising steps of recording without basis on copy control information. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Kim et al. suggest that if the recording speed is greater than the time taken to transmit the data then the copy should be allowed in col. 10, lines 37-47.

As per claim 47:

Inoue et al. and Kim et al. substantially teach the computer data signal embodied in a carrier wave and representing a sequence of instructions as applied to claim 46 above. Furthermore, Kim et al. teach the computer data signal embodied in a carrier wave and representing a sequence of instructions, wherein the step of recording records the recording

information and copy control information conformable to the recording format into the recording medium, regardless of the content of the copy control information, when the recording information and copy control information has been output at the output speed (col. 10, lines 37-47).

As per claim 48:

Inoue et al. substantially teach the information output apparatus of claim 1. Furthermore, Inoue et al. teach an output device for outputting the multiplexed recording information and copy control information to the information recording apparatus (col. 6, lines 51-59 and col. 10, lines 56-59). Not explicitly disclosed by Inoue et al. is outputting the multiplexed recording information and copy control information to the information recording apparatus at an output speed higher than a reproducing speed of the recording information from the recording medium. However, Kim et al. teach that in order to enable the copying, one of the conditions that must be met is having the reproducible time be greater than the reproduction time which is determined by the transmission time. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the apparatus, method, and output control program on an information recording medium disclosed in Inoue et al. to output the information at an output speed higher than a reproducing speed of the recording information from the recording medium. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Kim et al. suggest that if the recording speed is greater than the time taken to transmit the data then the copy should be allowed in col. 10, line 47 – col. 11, line 3.

VIII. Claims 12, 14, 29, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al., United States Patent No. 6,539,468 as applied to claims 10 and 27 above, and further in view of Nissl et al., United States Patent No. 6,530,023.

As per claims 12 and 29:

Inoue et al. substantially teach the information output recording system and method as applied to claims 10 and 27 above. Furthermore, Inoue et al. teaches the system and method, wherein the obtaining device outputs the obtained recording information and copy control information to the information recording apparatus at the output speed, after performing encryption processing (col. 10, lines 31-55). Not explicitly disclosed is the encryption processing corresponding to only the output speed. However, Nissl et al. teach having an encryption process corresponding to the output speed. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Inoue et al. to have the encryption process corresponding to only the output speed. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Nissl et al. in col. 5, lines 13-16, 28-30, and 36-39.

As per claims 14 and 31:

Inoue et al. and Nissl et al. substantially teach the information output recording system and method as applied to claims 12 and 29 above. Furthermore, Inoue et al. teach the system and method, wherein said information recording apparatus further comprises: a decoding device for decoding the output recording information and copy control information; and a recording encryption device for recording the decoded recording information and copy control information

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into the recording medium, after performing the predetermined encryption processing for recording on the information (col. 10, lines 26-55).

IX. Claims 13 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al., United States Patent No. 6,539,468 and Nissl et al., United States Patent No. 6,530,023 as applied to claims 12 and 29 above, and further in view of Kim et al., European Patent Application No. 96306507.3.

As per claims 13 and 30:

Inoue et al. and Nissl et al. substantially teach the information output recording system and method as applied to claims 12 and 29 above. Not explicitly disclosed is a determination device for determining whether or not the recording information and copy control information has been output from the obtaining device, according to the encryption processing in the output recording information and copy control information, and a recording control device for controlling the recording device so as to record the recording information and copy control information into the recording medium, only when it proves that the recording information and copy control information has been output from the obtaining device at the higher speed, according to the determination result in the determination device.

However, Kim et al. teach the system and method, wherein said information recording apparatus comprises: a determination device for determining whether or not the recording information and copy control information has been output from the obtaining device, according to the encryption processing in the output recording information and copy control information, and a recording control device for controlling the recording device so as to record the recording information and copy control information into the recording medium (col. 9, line 32 – col. 10,

line 36), only when it proves that the recording information and copy control information has been output from the obtaining device at the higher speed, according to the determination result in the determination device (col. 10, line 47 – col. 11, line 3).

Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Inoue et al. to record the recording information and copy control information into the recording medium, only when recognizing that the recording information and copy control information has been output at the higher output speed from the obtaining device, based on the recognition result in the recognizing device. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Kim et al. suggest that one way to control reproduction is to only allow the recording if the recording time is greater than the time it takes to output/transmit the data in col. 10, line 47 – col. 11, line 3.

X. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al., United States Patent No. 6,539,468 as applied to claim 1 above, and further in view of Videcrantz et al., United States Patent No. 6,275,588.

As per claim 49:

Inoue et al. substantially teach the information output apparatus of claim 1. Not explicitly disclosed is the apparatus further comprising an encryption method changing device for changing encryption method on the basis of the outputted information speed. However, Videcrantz et al. teach that the time consumption allowed for encryption extraction depends on many factors, one of those factors being the type of encryption algorithm used. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the

apparatus disclosed in Inoue et al. to change the encryption method on the basis of the outputted information speed. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Videcrantz et al. in col. 21, line 64 – col. 22, line 24.

XI. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al., United States Patent No. 6,539,468 as applied to claim 8 above, and further in view of Manabu et al., United States Patent No. 6,453,304 and Videcrantz et al., United States Patent No. 6,275,588. As per claim 50:

Inoue et al. substantially teach the information recording apparatus of claim 8. Not explicitly disclosed is the apparatus further comprising an encryption method detecting device for detecting encryption method of inputted information; and a switching device for switching the inputted information on the basis of the detected encryption method. However, Manabu et al. teach that the encryption key is chosen based on the copy control information, thus it is detected depending on the control information as well. Inoue et al. substantially teach the information output apparatus of claim 1. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the apparatus disclosed in Inoue et al. to detect the encryption key of the inputted information and then switch that information based on the detected encryption key in order to process it correctly. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Manabu et al. in col. 7, line 40 – col. 8, line 3.

Also not explicitly disclosed is that the encryption method is detected and switched. However, Videcrantz et al. teach that one can choose an encryption algorithm based on the transmission rate/time consumption allowed. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the apparatus disclosed in Inoue et al. to detect the encryption method of the inputted information and then switch that information based on the detected encryption method in order to process it correctly. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Videcrantz et al. in col. 21, line 64 – col. 22, line 24.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nadia Khoshnoodi whose telephone number is (571) 272-3825. The examiner can normally be reached on M-F: 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Application/Control Number: 09/982,818
Art Unit: 2137

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Examiner
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7/7/2006

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